

JESSE R. MILTIER III,
Plaintiff,
v.
HOLLY & HOLLY, PLLC,
JASON L. HOLLY AND
TRAVIS B. HOLLY individually,
Defendants.

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) **CIVIL ACTION NO. _____**
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) **JURY DEMAND**
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Comes Jesse R. Miltier III, by and through counsel, and would state as follows in support of his Complaint against the defendants:

1. Jesse R. Miltier III (hereinafter "Plaintiff") was a former client of the defendants and currently resides in Colorado.
2. Holly & Holly is a professional limited liability company who formerly represented Mr. Miltier, and it can be served with process through Travis B. Holly at 415 Hudson Drive, Elizabethton, Tennessee 37643.
3. Jason Holly formerly represented Mr. Miltier and he can be served at 415 Hudson Drive, Elizabethton, Tennessee 37643.
4. Travis B. Holly formerly represented Mr. Miltier and he can be served at 415 Hudson Drive, Elizabethton, Tennessee 37643.

VENUE AND JURISDICTION

5. The plaintiff is a resident of the State of Colorado.
6. The defendants are residents of Carter County, Tennessee.
7. A complete diversity of citizenship exists between the plaintiff and the defendants.
8. Pursuant to 28 USC 1332, this court maintains subject jurisdiction over this case.

FACTS

9. The defendants pursued the matter styled *Jesse Miltier v. Bank of America, et al.*, Docket No. C-9814 in Carter County Circuit Court.
10. The defendants developed the damages portion of the case both prior to and during the trial and were able to establish that the plaintiff suffered substantial damages as evidenced by the jury verdict.
11. The defendants did not amend the Complaint prior to the jury getting the case so that the prayer for relief was consistent with the proof that was developed before and during the trial.
12. The matter went to a jury and the jury returned a verdict in favor of Jesse Miltier in the amount of \$1,050,000.00.
13. The original Complaint limited compensatory damages to \$200,000.00 and as a result, the trial judge reduced the verdict to \$500,000.00.
14. Mr. Miltier only received a judgment in his favor of \$500,000.00.
15. Mr. Miltier through Holly & Holly appealed the matter to the Tennessee Court of Appeals hoping to overturn the trial court's reduction of the verdict.
16. The Tennessee Court of Appeals affirmed the trial court's reduction of the verdict.

17. As a result, Mr. Miltier has been limited to \$500,000.00 in damages although the jury returned a verdict for over a million dollars.

CAUSE OF ACTION FOR LEGAL MALPRACTICE

18. The defendants' failure to amend the complaint prior to the jury getting the case rises to the level of legal malpractice.

19. The defendants should have reviewed the original Complaint and should have amended the Complaint consistent with the proof that was developed before and during the trial.

20. Their failure to amend the Complaint consistent with the proof was negligence.

21. As a result of that negligence, the plaintiff did not obtain the entire verdict amount from Bank of America, and plaintiff has suffered damages in the amount of at least \$550,000.00.

22. But for the acts of legal malpractice by the defendants, the plaintiff would have received the entire verdict amount from Bank of America.

PRAYER FOR RELIEF

Wherefore the Plaintiff makes the following prayer for relief:

23. That process issue and that the defendants be required to answer the Complaint within the time allowed by law.

24. That a jury be impaneled to try this cause.

25. That a judgment in favor of Mr. Miltier be awarded consistent with the proof at trial to include \$550,000.00 plus any appropriate monies for other compensatory damages including pain and suffering, mental anguish, attorney fees and costs.

26. That the plaintiff receive any and all other relief deemed appropriate.

Respectfully submitted,

/s/Mark T. freeman

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